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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,520	12/28/2000	James B. Loveland	7927.131	6676
21999	7590	10/11/2006		
KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111			EXAMINER MEINECKE DIAZ, SUSANNA M	
			ART UNIT 3623	PAPER NUMBER

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/750,520	<b>Applicant(s)</b> LOVELAND, JAMES B.	
	<b>Examiner</b> Susanna M. Diaz	<b>Art Unit</b> 3623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,6-9,12-16,18,21,23-25,28-30 and 34-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-9,12-16,18,21,23-25,28-30 and 34-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 27, 2006 has been entered.

Claims 1, 3, 8, 14, 18, 25, 30, 34, and 42 have been amended.

Claims 44 and 45 have been added.

Claims 1-4, 6-9, 12-16, 18, 21, 23-25, 28-30, and 34-45 are pending.

### ***Response to Amendment***

2. Most of the rejections under 35 U.S.C. § 112, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs, have been withdrawn; however, due to Applicant's amendment of claim 14, a few rejections under 35 U.S.C. § 112, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs have been modified (and are explained in more detail below).

### ***Response to Arguments***

3. Applicant's arguments filed July 27, 2006 have been fully considered but they are not persuasive.

Applicant argues that the prior art fails to teach or suggest the integration of information from the various modules (pages 16-17 of Applicant's response); however, the Examiner respectfully disagrees. In Applicant's own specification, the user defines project information such as needed materials based on what he/she has learned through interaction with the training module. Similarly, the Kaelble-Pack combination (discussed in the art rejection) addresses different tools that a user can draw knowledge from as a whole to make project-related decisions. These teachings are commensurate in scope with Applicant's own disclosure.

Applicant argues that there would be no motivation to combine the teachings of Kaelble and Pack because there are no "discernible advantages" yielded by the combination (page 18 of Applicant's response). The Examiner has asserted various "discernible advantages" in the art rejection. It is not clear which advantage(s) the Applicant is contesting and for what specific reasons.

In conclusion, Applicant's arguments are not persuasive.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 14-16, 18, 21, 23-25, 28, and 29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to

reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 14 recites the step of electronically determining by the computer system “whether to perform said task or to have said task performed professionally.” The specification, as originally filed, does not explain how such a determination is made manually. Instead, a human user makes the determination based on cost data that may be electronically calculated. Claims 15, 16, 18, 21, 23-25, 28, and 29 are dependent from claim 14 and therefore inherit the same rejection.

Appropriate correction is required.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 14-16, 18, 21, 23-25, 28, and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 recites the step of electronically determining by the computer system “whether to perform said task or to have said task performed professionally.” The specification, as originally filed, does not explain how such a determination is made manually. Instead, a human user makes the determination based on cost data that may be electronically calculated. Therefore, the intended metes and bounds of claim 14 are unclear. Claims 15, 16, 18, 21, 23-25, 28, and 29 are dependent from claim 14 and therefore inherit the same rejection.

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Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-4, 6, 9, 12, 13, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaelble ("Best Man: Do It Best Corp., Based in Fort Wayne, is a \$2.2 Billion National Hardware Cooperative") in view of Pack ("These Old Web Sites").

Kaelble discloses an integrated computerized system having one or more computer devices for preparing for the accomplishment of a task, said system comprising:

[Claim 1] a training module selectively executed by the one or more computer devices for providing interactive training to a user regarding how to perform said task (¶¶ 19 – Advice and project tips, including articles and video clips are offered, upon request at the Do It Best web site, to a user);

a purchasing module selectively executed by the one or more computer devices for providing means for purchasing at least one of (i) said materials and (ii) said services for performing said tasks (¶¶ 17, 19);

[Claim 9] wherein said purchasing module comprises an on-line link to at least one retailer who can provide said materials (¶¶ 17, 19);

[Claim 13] wherein said system is implemented as an integrated web site (¶¶ 17, 19);

[Claim 44] wherein the training module receives user input relating to said task to be accomplished and automatically generates at least a portion of said project information including *at least one* of (i) materials and (ii) services necessary to accomplish said task (¶¶ 17, 19 -- Do-it-yourself tips are provided);

[Claim 45] wherein the user may modify said project information at any time in said training module, said estimating module and said purchasing module, by providing additional user input relating to *at least one* of:

specifics about said task to be accomplished to allow said project information to be more refined (¶¶ 17, 19 -- Do-it-yourself tips are provided);

specifics about exact materials desired to be incorporated into said task to refine said project information; and

specifics about materials already in the possession of said user, wherein said specifics about said materials in the possession of said user are used to modify said project information so as to allow said estimating module to eliminate said materials from said estimated cost and said purchasing module to eliminate said materials from a purchase, wherein said materials in the possession of said user include at least one of:

tools necessary to accomplish said task;

supplies necessary to accomplish said task;

hardware necessary to accomplish said task.

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Regarding claims 1 and 6, Kaelble discusses various details of the Do It Best web site; however, this web site does not expressly provide users with an estimating module dynamically executed by one or more computer devices that estimates at least *one* of the cost of materials and services required to perform a desired task. Pack makes up for this deficiency in its teaching of the services offered by various home improvement web sites. Pack's article suggests that the Internet is a convenient source of a wealth of knowledge for those interested in completing home improvement projects (¶¶ 1, 20). As explained by Pack, not only are there web sites (such as Faucet Outlet Online) that assist customers in personally selecting and purchasing materials (¶ 19), but there are also several web sites that make job estimate calculators available to users via the Internet. For example, This Old House's web site has a "Calculation subsection [that] includes conversion tables, workshop reference charts, and-coming soon-Internet enabled calculators that 'will simplify preparation efforts for your next project by helping you estimate job costs and materials required before you begin.'" (¶ 7) Similarly, a web site associated with the Home Improvement Encyclopedia from Better Homes and Gardens Online "offers several online Project Calculators, including a Paint Estimator, a Drywall Estimator, and a Lumber Cost Estimator." (¶ 13) The Do It Best web site provides similar services to its users as those described by Pack; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to incorporate with the Do It Best web site an estimating module dynamically executed by the one or more computer devices for estimating the cost of materials (i.e., cost and project information) required for said task,



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wherein said estimating module allows said user to estimate the cost of personally obtaining said materials and said supplies required to perform said task in order to enhance the convenience and access to knowledge for those interested in completing home improvement projects (as suggested by Pack, ¶¶ 1, 20), thereby encouraging repeat patronage from its customers.

Regarding claim 2, Kaelble teaches that users are provided with online training for home improvement projects; however, Kaelble does not expressly disclose that the training comprises online multimedia exercises. Official Notice is taken that it is old and well-known in the art of online training to test a user's retention of the training material in order to assess the competence of the user to carry out tasks associated with the training material. Many home improvement projects, such as electrical rewiring, can pose dangerous living conditions if performed improperly; therefore, it is crucial for the inhabitants of a home that the person(s) performing the home improvements projects are competent to perform the necessarily tasks involved. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to enhance Kaelble's training module to incorporate on-line multimedia exercises in order to help a user truly assess whether or not he/she is competent to complete a given home improvement-related task(s), thereby serving to mitigate the chances of a home improvement project leaving the inhabitants of the home exposed to unsafe living conditions, such as those arising from faulty electrical wiring.

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As per claim 3, a user of the Kaelble-Pack combination would need to input information relating to a desired task in order for the estimating module and purchasing module to correctly perform the material cost assessment and order materials.

In reference to claims 1 and 4 and as discussed above, Kaelble allows a user to receive training for a specific task and order needed materials and supplies. Kaelble's users can take advantage of online training and then use this knowledge to order the proper materials and supplies; therefore, Kaelble's users effectively are enabled by knowledge gained during their "training sessions" to compile and edit a task specific database of materials and supplies required to perform a desired task. Kaelble does not expressly teach that the task specific database itself is transferred to the estimating and purchasing modules; however, the combination of Kaelble-Pack yields the integration of a training module, estimating module, and purchasing module as an Internet web site. The step of transferring a task specific database to an estimating and purchasing module more fully automates the Kaelble-Pack combination by preventing a user from having to repeatedly enter task, materials, and supplies information in the various modules. Official Notice is taken that it is old and well-known in the art to automatically pass relevant data back and forth from distinct computer modules in order to mitigate the need to repeatedly enter the same data by hand, thereby saving time and reducing the potential for error normally associated with manual data entry. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to enhance the Kaelble-Pack combination by incorporating the ability to transfer a task specific database to the estimating and

purchasing modules, thereby saving time and reducing the potential for error normally associated with manual data entry.

Further addressing claim 1, neither Kaelble nor Pack expressly discloses a training module “for tracking training said user has received for performing said task, and for selectively transmitting to another module of the integrated system information relating to training said user has received for performing said task.” However, this specific tracking of a user’s completed training is not needed as input to the functions performed by the other system modules, such as the estimating and purchasing modules. Therefore, the integration of such a tracking feature with the other recited modules (e.g., the estimating and purchasing modules) is analogous to a user being able to access multiple independent computer programs from his/her desktop. These computer programs may or may not communicate information to one another. Regardless of whether or not this intercommunication occurs, each computer program may be executed separately by a user. The benefit of incorporating all of these independent computer programs on a single desktop is convenience to the user. Furthermore, Official Notice is taken that it is old and well-known in the art to track and communicate a record of a user’s completed training. This capability is useful for verifying the user’s expertise in a given area. Since Kaelble is directed toward training a user to perform home improvement projects, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to adapt Kaelble’s training module “for tracking training said user has received for performing said task, and for selectively transmitting to another module of the integrated

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system information relating to training said user has received for performing said task” in order to provide a user with convenient access to information regarding his/her expertise in performing a given home improvement project before he/she needlessly spends money on a project that he/she is not deemed capable of safely completing without assistance from a professional.

Regarding claim 12, Kaelble discusses various details of the Do It Best web site; however, this web site does not expressly provide users with the ability to contact a professional to perform a task. Pack makes up for these deficiencies in its teaching of the services offered by various home improvement web sites. Pack’s article suggests that the Internet is a convenient source of a wealth of knowledge for those interested in completing home improvement projects (¶¶ 1, 20). As explained by Pack, not only are there web sites (such as Faucet Outlet Online) that assist customers in selecting and purchasing materials (¶ 19), but there are also several web sites that help customers locate contractors within a local area. For example, Pack states, “The site sponsored by the National Electrical Contractors Association (<http://www.necanet.org>) offers not only information for professionals but also a Find a Contractor search engine that can help you locate a professional in your area.” (¶ 18) The Do It Best web site provides similar services to its users as those described by Pack; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to incorporate with the Do It Best web site the ability for a user to contact a professional to perform said task (claim 12) in order to enhance the convenience and access to knowledge for those interested in completing home

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improvement projects (as suggested by Pack, ¶¶ 1, 20), thereby encouraging repeat patronage from its customers.

10. Claims 7, 8, 14-16, 18, 21, 23-25, 28-30, and 34-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaelble ("Best Man: Do It Best Corp., Based in Fort Wayne, is a \$2.2 Billion National Hardware Cooperative") in view of Pack ("These Old Web Sites"), as applied to claim 6 above, and further in view of Porter ("The Pitfalls of Doing It Yourself").

As per claims 7 and 8, neither Kaelble nor Pack expressly teaches that the estimating module allows a user to estimate the cost of professional services to accomplish a task, wherein the user may use a purchasing module to dynamically compare the cost of professional services to the cost of obtaining needed material and supplies to evaluate whether any savings incurred by performing the task are justified. However, Porter's article centers around the question "how do you decide when you should do the job yourself and when you should hire a professional?" (¶ 4) Porter provides the following pieces of advice:

"As a rule of thumb, it will take even a skillful amateur two or three times as long as a pro to perform most jobs," says Paul Spring, a former contractor and editor who is now a product manager for a toolmaker firm.

This estimate does not include the time required to plan your work, to make extra trips to the hardware store to rent tools or to get parts that most tradespeople have in their tool kit.

Spring also points out that while a professional will be working full time on a project, most homeowners have other jobs. Therefore, projects may extend over weeks instead of days.

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“If the work is in a kitchen or other high-traffic area, be sure that you and your significant other are realistically prepared for the possible duration of the project,” Spring says.

People who psychologically need tasks to be completed in a short period might stick to smaller projects.

Finally, for some people, time literally is money.

Those who frequently bring work home from the office or work out of their homes might find their careers or incomes adversely affected by lengthy do-it-yourself projects.

On relatively small jobs, however, you can save substantially by doing the job yourself instead of calling in a professional for an hour or two. (¶¶ 11-18)

Porter explains that money, time, and career demands are all factors in determining whether one should do a home improvement job on one's own or hire a professional. Clearly, Porter's advice is meant to help a homeowner decide whether it is truly worth it to hire a professional versus complete a home improvement project on one's own. Kaelble, Pack, and Porter all serve to assist individuals in conveniently and more easily making wise decision regarding home improvement projects; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with the Kaelble-Pack combination the service of providing an estimating module that allows said user to estimate the cost of professional services to accomplish said task (claim 7), wherein said user may use a purchasing module to dynamically compare said cost of professional services to said cost of obtaining said material and said supplies to evaluate whether any savings incurred by performing said task are justified (claim 8) in order to help a homeowner decide whether it is truly worth it to hire a professional versus complete a home

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improvement project on one's own. Furthermore, while Porter's advice is not expressly implemented in a computerized format, the Examiner takes Official Notice that it is old and well-known in the art to utilize a computer to perform calculations commonly performed by hand in order to complete such calculations with greater speed and accuracy. For the same reasons, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to perform the steps of claims 7 and 8 using a computer in order to complete such calculations with greater speed and accuracy.

[Claims 14-16, 18, 21, 23-25, 28, 29] Claims 14-16, 18, 21, 23-25, 28, and 29 recite limitations already addressed by the rejection of claims 1-4, 6-9, 12, and 13 above; therefore, the same rejection applies.

[Claim 30] Claim 30 recites limitations already addressed by the rejection of claims 1-4, 6-9, 12, and 13 above; therefore, the same rejection applies.

[Claims 34-43] Claims 34-43 recite limitations already addressed by the rejection of claims 1-4, 6-9, 12-16, 18, 21, 23-25, 28, and 29 above; therefore, the same rejection applies. It should be noted that the rejection addresses the determination of whether or not to perform a task by oneself or have it performed professionally both by the user and with the assistance of a computer.

***Allowable Subject Matter***

11. The following is a statement of reasons for the indication of allowable subject matter: If claim 45 were amended to delete "at least one of" in line 3, the limitation "wherein the user may modify" (line 1) were amended to state "wherein the user modifies," and claim 45 were rolled up into claim 1 (incorporating all intervening claims), then claim 45 would be potentially allowable (pending an updated search). If a similar amendment were made in the method claims, such a claim would likely be allowable as well (also, pending an updated search).

***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Susanna M. Diaz  
Primary Examiner  
Art Unit 3623

October 2, 2006